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EXAMINER

NGUYEN, TRAN N

ART UNIT

PAPER NUMBER

3626

NOTIFICATION DATE

DELIVERY MODE

09/14/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTOMail@traskbritt.com

DETAILED ACTION

Response to Amendment

Applicant's amendment filed on 08/25/2011 is hereby entered.

Claim 9 is rejected under the same grounds and rationale as discussed in the Office Action mailed on 05/25/2011.

Response to Arguments

Applicant's arguments filed 08/25/2011 have been fully considered but they are not persuasive.

On page 6 Applicant asserts:

The copy of the Advisory Action provided the applicants and recorded on PAIR is incomplete. Only the first page of the Detailed Action was provided. The applicants request that the entire document be made available to them, and reserve their right to supplement and/or change this response in view of the comments therein.

Due to a printing error, the Office Action mailed on 08/19/2011 was incomplete. A replacement Office Action containing the entirety of the incomplete Office Action was remailed to Applicant on 08/29/2011.

On page 6-8 Applicant discusses non-prior art references published after Applicant's priority date.

Examiner has fully considered these references; however, they do not overcome the rejections as previously applied.

On page 8-9 Applicant asserts:

First, page 45, column 2, paragraph 2 of DuBroff is not discerned as disclosing anything about "collecting data" from an unmarried couple. In contrast, the cited paragraph recites:

Such "insurance" - the family security guarantee plan - would be initiated at the time of marriage and used in the event of divorce to help provide a breathing period for both spouses to work out the future. Through periodic payments made over the course of the first few years after divorce, it would provide temporary minimal child support. It could insure our children from becoming public charges, save our unemployable divorcees from hasty

remarriages, keep our middle income marriage casualties from the poverty rolls. Further, it could protect our guilt-ridden fathers from avoiding the children because of delinquent payments. It could eliminate the family court support and non-support hostilities that cause relationships of an entire family - including the children - to deteriorate. It could even help the father who gets custody of the children and must provide household care while he works.

Clarification is thus respectfully requested as to the Office's citations.

According to DuBroff, insurance is provided to spouses through periodic payments. This is a form of "collecting data" because a payment suggests a monetary amount from a source. This represents at least two form of "data" to be collected.

On page 9 Applicant asserts:

Second, page 47, columns 2-3 of DuBroff do not appear to relate to "calculating various data required for insurance". In contrast, the cited paragraph recites:

As I've shown, the need for some type of divorce insurance is acute. Divorce insurance, family support insurance, child welfare insurance - whatever you like to call it - is an idea whose time has come. It's now up to the actuaries, the insurance plan executives, the bankers and the far sighted lawyers among us who are concerned with helping families - even divorced families - live in continuity, dignity and security. It's up to us to press for a workable plan.

Clarification is thus respectfully requested as to the Office's citations.

DuBroff suggests that actuaries, insurance plan executives, bankers, and lawyers to implement an insurance policy as described by DuBroff previously.

This teaching is considered to be "calculating various data required for insurance" because one of ordinary skill in the art would recognize that at least actuaries would perform the calculations required to implement an insurance policy.

On page 9 Applicant argues:

Third, as previously discussed during the prosecution hereof, claim 9 is directed to the situation wherein an unmarried couple enters into a cohabitation agreement (e.g., a civil union between same sex couples). (See, also, Office action, pp. 4-5). The disclosure of DuBroff appears to be limited to divorces between married couples and does not teach the claimed contractual relationships.

Examiner considers marriage to be a form of "cohabitation agreement". The claim recites that the couple entering into the agreement are unmarried; however, the claim does not preclude the couple from being married while in the agreement.

On page 10 Applicant argues:

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action. Specifically, the cited paragraph (*i.e.*, at page 46, column 3, paragraph 3) recites:

If the [divorce insurance policy] were made mandatory for all married people (or all who have children), it could be administered like social security, with painless deductions taken from each applicable wage-earner's paycheck. (Thus, when both husband and wife work, both would be expected to contribute ... a factor which should make such an insurance policy even more palatable.)

or (if the applicants misunderstood the specific citation):

Another plan that has been suggested is a voluntary short-term trust with no withdrawal privileges, to be set up for the children and/or needy spouse; the government would add incentive in the form of tax deductions for both the principal and the interest.

Again, the cited portion of DuBroff is not believed to disclose "calculating . . . a periodic amount to be charged a prospective participant for insurance covering at least some financial consequences of the untimely ending of a cohabitation agreement between the two or more [unmarried] natural persons". Clarification as to the citation is again respectfully requested.

Again, as previously discussed, claim 9 is directed to the situation of a cohabitation agreement between unmarried persons, and the disclosure of DuBroff is limited to divorces between married couples.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (*i.e.*, the "cohabitation agreement" is not marriage) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As discussed above, marriage being the agreement is within the scope of the claim.

Applicant's arguments on page 10-15 merely rehash the arguments previously addressed above, and incorporated herein.

Regarding the argument that the primary reference teaches away from the claimed combination, it is noted that the references do not specifically discredits, discourages, or otherwise criticizes the combination as claimed and addressed by Examiner. Therefore, there is no teaching away in the applied art.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In this case, no portion of the specification is relied on for the ground of rejection.

Applicant's arguments on page 15-17 merely rehash the arguments previously addressed above, and incorporated herein.

On page 17 Applicant argues:

Then the Office asserts that "Golden teaches paying for legal fees in case of divorce (page 2 paragraph 15)." As previously discussed however, Golden is directed actually to "legal insurance" that happens to include coverage for legal fees associated with divorce (see, e.g., page 2, ¶¶ 11-15 of Golden). There is no disclosure in Golden of coverage of "financial consequences comprise, in addition to legal fees, financial consequences selected from the group consisting of moving costs, a former partner's education, health insurance premiums, life insurance premiums, and combinations of any thereof" as required by the claims.

Examiner has relied on Grande for this feature.

Grande specifically teaches that health and life insurance premiums must be paid as part of a divorce settlement (page 652-653).

Therefore, one of ordinary skill in the art would be able to use the payouts of DuBroff in combination with the secondary references to pay for legal fees and other fees as part of a divorce settlement, wherein custodial child support is known to be one type of fees.

The remaining arguments on page 17-20 have been fully addressed as previously submitted in the Office Action remailed on 08/29/2011, and incorporated herein.

Conclusion

In view of the totality of the evidence, the finality of the previous Office Action is hereby maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tran (Ken) N. Nguyen whose telephone number is 571-270-1310. The examiner can normally be reached on Monday - Friday, 9:00 am - 5:00 pm Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W. Morgan can be reached on 571-272-6773. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/TN/

Examiner, Art Unit 3626

/C. Luke Gilligan/

Primary Examiner, Art Unit 3626